

December 22, 2004

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby, TW-A325
Washington, D.C. 20554

Re: *Ex Parte Presentation*
CG Docket No. 04-208

Dear Ms. Dortch:

On Tuesday, December 21, 2004, Christopher Day, Garnett Goins, Leonard Kennedy, Kent Nakamura, Michael Raymond and Caroline Smith of Nextel Communications, Inc. and Christopher J. Wright of Harris, Wiltshire & Grannis LLP met with Dane Snowden, Chief, Consumer & Governmental Affairs Bureau ("CGB"); Jay Keithley, Deputy Chief, CGB; and Leon Jackler, Senior Legal Advisor, CGB. During the meeting, the Nextel representatives discussed concerns regarding the March 30, 2004, National Association of State Utility Consumer Advocates' ("NASUCA") Petition for Declaratory Ruling ("NASUCA Petition"), and associated Commercial Mobile Radio Service ("CMRS") regulation at the state level.

Specifically, Nextel noted that a recent proliferation of wireless-specific regulation at the state level threatens to undermine Congress' mandate, pursuant to Section 332 of the Communications Act, that CMRS be regulated with a light touch at the federal level. Therefore, Nextel noted the need for swift Commission action to halt state activities seeking to regulate CMRS carriers' provision of service. The Commission should preserve the consumer benefits that have resulted from the deregulatory, federal framework for CMRS.

At the outset, Nextel noted that it has taken a national approach to the provision of CMRS services, particularly billing and customer service issues. Numerous sales and customer service issues that were previously handled in various field offices are now handled in a centralized environment. This centralized approach has substantially improved Nextel's business economies and efficiencies. More importantly, by centralizing its business policies and systems, Nextel has substantially improved the overall customer experience. This high level of customer satisfaction has been reflected in a number of customer surveys, as well as in Nextel's very low complaint rate at both the Commission and state regulatory agencies. In addition, Nextel noted that it continually researches new methods to improve the readability and clarity of its bills, and plans to phase-in improved bills on a national level soon.

However, a recent proliferation of disparate state laws, regulations and lawsuits seeking to govern CMRS providers' billing practices threatens to undermine the seamless, national offerings of CMRS providers, such as Nextel, to the ultimate detriment of the public. Nextel noted the California Public Utilities Commission's ("CPUC") approval of a package of customer service and billing rules (the "CPUC Consumer Bill of Rights") that imposes lengthy, onerous and potentially confusing requirements on CMRS providers. The State of Minnesota also has recently passed legislation that seeks to govern CMRS rates, rate elements and contract terms. In addition, CMRS regulation legislation has been introduced in the New York State Assembly, and AARP has indicated an intention to introduce "model" CMRS legislation in Illinois, New Jersey and Pennsylvania.

These disparate state regulations – which contain a number of conflicting mandates that cannot be implemented simultaneously – threaten to Balkanize the current national CMRS market. In order to prevent the fragmentation of the CMRS market to the detriment of the public, Nextel urged the Commission to take action to ensure that regulation of CMRS remains primarily on the federal level.

Nextel urged the Commission to reaffirm its jurisdiction over CMRS rates, rate structures and billing practices and stop states from imposing conflicting regulations. Going forward, Nextel also urged the Commission to take the same general approach to CMRS regulation as that delineated in the Commission's recent Vonage Holdings Corp. IP-enabled telephony decision¹ by regulating CMRS with a light regulatory touch at the federal level pursuant to the Commission's existing authority under Section 332.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, this letter is being filed electronically for inclusion in the public record of the above-referenced proceeding. In addition, Nextel is also filing with this letter copies of the following documents that were discussed or requested at the meeting: 1) a copy of tax and fee breakdown on Nextel billing statement; 2) an August 1, 2003, letter from the Indiana Utility Regulatory Commission regarding line-item billing of the Indiana Utility Receipts Tax; 3) a copy of Rhode Island Senate Bill S2407; 4) a copy of New York State Assembly Bill 11526; 5) a copy of Nextel's nationwide (except California) Customer Agreement; 6) a copy of Nextel's California-specific Customer Agreement; 7) a copy of AARP's model "Wireless Telecommunications Consumer Protection Act;" 8) a summary of the provisions and conflicts between the CPUC Consumer Bill of Rights and AARP's model "Wireless Telecommunications Consumer Protection Act;" 9) a copy of a December 4, 2002, Nextel *ex parte* letter attaching a presentation entitled "Impact of Universal Service

¹ See News, *FCC Finds That Vonage Not Subject to Patchwork of State Regulations Governing Telephone Companies*, FCC 04-267 (rel. Nov. 9, 2004).

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Reform on the Wireless Industry;" and 10) copies of selected pleadings filed in *Nextel of California, Inc. v. Brown, et al.*, No. SACV 04-1229 DOC (MCx) (C.D.Ca.).

Should you have any questions regarding this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/ Christopher R. Day
Christopher R. Day
Counsel, Government Affairs

Attachments

cc: Dane Snowden
Jay Keithley
Leon Jackler